

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/687,774	06/26/96	NORBECK	D 5778.US.01

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EXAMINER

AULAKH, C

ART UNIT

PAPER NUMBER

1612

DATE MAILED: 11/10/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/687,774

Applicant(s)

Norbeck, D.W. et al.

Examiner  
Charanjit Aulakh

Group Art Unit  
1612



☒ Responsive to communication(s) filed on Aug. 24, 1998 (paper no. 8)

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-16 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-16 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1612

### DETAILED ACTION

1. According to a preliminary amendment ( paper no. 9 ), filed on Aug. 24, 1998, the applicants have cancelled claims 17-44.
2. Claims 1-16 are now pending in the application.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kempf ( U.S. Patent no. 5,674,882 ), cited on applicants form 1449.

Kempf discloses Retroviral Protease Inhibiting compounds ( see examples 2 and 40 ) which are identical to the compound Ritonavir of the instant invention, a composition and a method for inhibiting retroviral proteases and in particular HIV protease, a composition and a method for treating a retroviral infection and in particular an HIV infection ( see tables 1 and 2 ). Kempf also teaches using the HIV protease inhibiting compounds in combination with a variety of several other drugs ( see col. 110, line 12 to col. 112, line 19 ) and in particular with another HIV protease inhibiting compound for the treatment or prophylaxis of HIV infection ( see claims 1-3 ).

Art Unit: 1612

Kempf does not teach improving the pharmacokinetics of a drug or increasing the blood levels of a drug by combining an HIV protease inhibitor with another HIV protease inhibitor such as Ritonavir. However, it is the examiner's position that one skilled in the art would have been motivated to use the combination of Ritonavir and another HIV protease inhibitor for treating an HIV infection since the intended utility is same i.e., increased efficacy of combination treatment and Kempf teaches using combination treatment for treating an HIV infection ( see claims 1-3 ).

5. Any inquiry concerning this communication should be directed to Chana Aulakh at (703) 305-4482.

*Alan L. Rotman*

**ALAN L. ROTMAN  
PRIMARY EXAMINER**